

ASSEMBLY BILL

No. 1404

Introduced by Committee on Judiciary (Wieckowski (Chair), Alejo, Chau, Dickinson, Garcia, Muratsuchi, and Stone)

March 12, 2013

An act to repeal and add Section 841 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1404, as introduced, Committee on Judiciary. Real property: boundaries.

Existing law defines the rights and obligations of owners of real property. Under existing law, coterminous owners are equally bound to maintain the boundaries between their properties. Existing law further requires coterminous owners to maintain fences between their properties, except as specified.

This bill would instead require adjacent landowners to share equally the responsibility for maintaining the boundaries and monuments between them. The bill would establish a presumption that adjacent landowners share an equal benefit from any fence dividing their properties and, absent a lawful agreement to the contrary, are equally responsible for the reasonable costs for the fence, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 841 of the Civil Code is repealed.

1 ~~841. Cotermious owners are mutually bound equally to~~
2 ~~maintain:~~

3 ~~1. The boundaries and monuments between them;~~

4 ~~2. The fences between them, unless one of them chooses to let~~
5 ~~his land lie without fencing; in which case, if he afterwards incloses~~
6 ~~it, he must refund to the other a just proportion of the value, at that~~
7 ~~time, of any division fence made by the latter.~~

8 SEC. 2. Section 841 is added to the Civil Code, to read:

9 841. (a) Adjacent landowners shall share equally in the
10 responsibility for maintaining the boundaries and monuments
11 between them.

12 (b) Adjacent landowners are presumed to share an equal benefit
13 from any fence dividing their properties and, absent a lawful
14 agreement to the contrary, shall be presumed to be equally
15 responsible for the reasonable costs of construction, maintenance,
16 and necessary replacement of the fence.